

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>HY-KO PRODUCTS COMPANY, <i>et al.</i></b>	)	<b>CASE NO. 5:08cv1961</b>
	)	
Plaintiffs,	)	
	)	<b>JUDGE DOWD</b>
v.	)	
	)	
<b>THE HILLMAN GROUP, INC.,</b>	)	
	)	
Defendant.	)	

**JOINT CLAIM CONSTRUCTION**

Pursuant to the Court's Order dated November 12, 2008, Plaintiffs Hy-Ko Products Company and Aurora Properties Holding Company, LLC (collectively, "Hy-Ko") and Defendant The Hillman Group, Inc. ("Hillman") hereby submit their joint claim construction for terms in certain claims of Hillman's U.S. Patent No. 7,114,894 ("the '894 patent") (attached hereto as Exhibit A).

Dated: July 15, 2009

Respectfully submitted,

/s/ Christopher P. Isaac

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was electronically filed on July 15, 2009. A copy of the same will be served on counsel of record by operation of the Court's electronic filing system. Parties may access this filing through the Court's electronic filing system.

/s/ Gary L. Walters  
*One of the Attorneys for Hy-Ko Products  
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Company, LLC*

*Exhibit A*

**Joint Claim Construction of Asserted Claims of U.S. Patent 7,114,894**  
***Hy-Ko Products Company, et al. v. The Hillman Group, Inc.***  
 United States District Court, Northern District of Ohio  
 Eastern Division Case No. 5:08-cv-1961

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
A key cutting machine for cutting a notch pattern on a key blank, comprising:			No construction necessary.
a front end configured to longitudinally receive the key blank inserted there through;	<p><b><u>front end:</u></b> The opening of the machine into which a key blank is inserted along its lengthwise axis, tip first for cutting.</p> <p><b><u>longitudinally receive the key blank inserted therethrough:</u></b> The user inserts a key blank tip first into the front end of the machine with the insertion direction oriented along the lengthwise axis of the key blade where the key blank is positioned for cutting.</p>	<p><b><u>a front end configured to longitudinally receive the key blank inserted there through:</u></b> A portion of the machine intended to face the user that is configured to permit a key blank to enter in a lengthwise orientation.</p>	
a housing including a top frame and a base;	<p><b><u>housing:</u></b> A rigid structure fixing the top frame, base, and front end relative to each other.</p> <p><b><u>top frame:</u></b> A rigid structure above the base.</p>	<p><b><u>a housing including a top frame and a base:</u></b> No construction necessary. Plain meaning is clear. If the court chooses to construe this phrase, Hillman proposes the following construction: a structure that has a top member and a bottom member.</p>	
a pair of cutting heads suspended below the top	<b><u>a pair of cutting heads suspended below the top frame;</u></b>	<b><u>a pair of cutting heads suspended below the top frame of the housing</u></b>	

CLAIM 24 OF THE '894 PATENT

## EXHIBIT A

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
frame of the housing without being supported on the base of the housing and	Two cutting heads mounted underneath the top frame where the cutting heads are indirectly supported by a load path through the top frame and sides of the housing to the base.	<b><u>without being supported on the base of the housing:</u></b> Two cutting heads hang below the top frame without being directly supported on the base.	
moveable longitudinally in unison relative to the top frame and base, in a longitudinal direction parallel to the direction of key blank insertion,	<b><u>moveable longitudinally in unison...in a longitudinal direction parallel to the direction of key blank insertion:</u></b> The two cutting heads are physically constrained to move in the same direction along the lengthwise axis of the key blank at the time the key blank was inserted into the machine, wherein the cutting heads move at the same time, at the same rate of speed, and in the same vertical plane defined perpendicular to the lengthwise direction of the key blank blade at the time the key blank was inserted into the front end of the machine (i.e., the cutting heads remain at all times across from each other, one on each side of the key blank blade), wherein the cutting heads move relative to the fixed top frame.	<b><u>a pair of cutting heads . . . moveable longitudinally in unison relative to the top frame and base:</u></b> Two cutting heads that are capable of being moved at the same time in relation to a stationary top frame and base lengthwise between the front and back of the machine.  <b><u>in a longitudinal direction parallel to the direction of key blank insertion:</u></b> In a direction that is parallel to a longitudinal axis of an inserted key blank after that key blank has been introduced into the machine and is laterally aligned.	

## EXHIBIT A

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
each cutting head including a device connected thereto for actively moving each cutting head exclusively in lateral directions, perpendicular to the longitudinal direction of key blank insertion,	<p><b><u>device:</u></b> The working parts of the machine cooperating to accurately move the cutting heads towards and away from the key blank blade in a plane parallel to the key blade width.</p> <p><b><u>actively moving:</u></b> The device controls and causes the cutting heads to move without the use of a tracer element.</p> <p><b><u>exclusively in lateral directions, perpendicular to the longitudinal direction of key blank insertion:</u></b> The device can only move the cutting heads in a direction that is parallel to the key blade width at the time the key blank was inserted into the front end of the machine.</p>	<p><b><u>each cutting head including a device connected thereto for actively moving each cutting head:</u></b> Each cutting head includes working parts that function together to cause the cutting head to move in a controlled manner without the use of a tracer element.</p> <p><b><u>exclusively in lateral directions, perpendicular to the longitudinal direction of key blank insertion:</u></b> Only in directions that are perpendicular to a longitudinal axis of an inserted key blank after that key blank has been introduced into the machine and is laterally aligned.</p>	
and a cutting wheel rotatable to cut the notch pattern on the key blank.			No construction necessary.

## EXHIBIT A

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
CLAIM 28 OF THE '894 PATENT  The key cutting machine of claim 24, further comprising a clamp mechanism positioned between the cutting heads and configured to hold the key blank stationary.	<b><u>clamp mechanism:</u></b> A mechanism having a T-shape face on which the key blank rests, and actuated to move up and down via a cam and springs.	<b><u>a clamp mechanism positioned between the cutting heads and configured to hold the key blank stationary:</u></b> No construction necessary. Plain meaning is clear. If the court chooses to construe this phrase, Hillman proposes the following construction: a mechanism positioned between the cutting heads having parts that can be brought together to hold the key blank stationary.	
CLAIM 29 OF THE '894 PATENT  The key cutting machine of claim 28, wherein the clamp mechanism is stationary and the cutting heads are movable relative to the clamp mechanism.	<b><u>movable relative to the clamp mechanism:</u></b> The cutting heads move in a direction parallel to the key blank width and with respect to the clamp mechanism.	<b><u>the clamp mechanism is stationary and the cutting heads are movable relative to the clamp mechanism:</u></b> No construction necessary. Plain meaning is clear. If the court chooses to construe this phrase, Hillman proposes the following construction: the clamp mechanism does not move in the lateral direction, and the cutting heads are capable of being moved in the lateral direction in relation to the clamp mechanism.	

## EXHIBIT A

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
CLAIM 31 OF THE '894 PATENT The key cutting machine of claim 24, wherein each cutting head is movable laterally in a linear motion.	<u><b>movable laterally in a linear motion:</b></u> Each cutting head moves in a direction parallel to the key blank width where such movement has no curvature.	<u><b>each cutting head is movable laterally in a linear motion:</b></u> Each cutting head is capable of being moved in the lateral direction in a straight manner having no curvature.	
CLAIM 33 OF THE '894 PATENT The key cutting machine of claim 24, further comprising a pair of guide rails suspended from the top frame of the housing and extending longitudinally, a pair of bearing supports slidably mounted to each guide rail, and a carriage connected to the bearing supports.	<u><b>carriage:</b></u> A single, rigid structure to which both cutting heads are attached.	<u><b>carriage:</b></u> No construction necessary. Plain meaning is clear. If the court chooses to construe this phrase, Hillman proposes the following construction: a movable part of a machine for supporting another movable part.	



## EXHIBIT A

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
<p>The key cutting machine of claim 33, wherein the cutting heads are suspended below the carriage and movable longitudinally in unison as the carriage slides longitudinally.</p>	<p><u>movable longitudinally in unison as the carriage slides longitudinally</u>: A single, rigid structure to which both cutting heads are attached such that the carriage and cutting heads are physically constrained to move in the same direction along the lengthwise axis of the key blank at the time the key blank was inserted into the machine, at the same time, at the same rate of speed, and in the same vertical plane defined perpendicular to the lengthwise direction of the key blank blade at the time the key blank was inserted into the front end of the machine.</p>	<p><u>the cutting heads are suspended below the carriage and movable longitudinally in unison as the carriage slides longitudinally</u>: Two cutting heads hang below the carriage and are capable of being moved at the same time lengthwise between the front and back of the machine as the carriage slides lengthwise between the front and back of the machine.</p>	

CLAIM 34 OF THE '894 PATENT

## EXHIBIT A

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
<p>The key cutting machine of claim 24, further comprising a clamp mechanism positioned between the cutting heads and configured to hold the key blank stationary, wherein the clamp mechanism includes a lower clamp and an upper clamp, the upper clamp suspended from the top frame of the housing and vertically movable relative to the lower clamp.</p>	<p><u>clamp mechanism</u>: A mechanism having a T-shape face on which the key blank rests, and actuated to move up and down via a cam and springs.</p>	<p><u>a clamp mechanism positioned between the cutting heads and configured to hold the key blank stationary</u>: No construction necessary. Plain meaning is clear. If the court chooses to construe this phrase, Hillman proposes the following construction: a mechanism positioned between the cutting heads having parts that can be brought together to hold the key blank stationary.</p>	

CLAIM 38 OF THE '894 PATENT

## EXHIBIT A

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
A key cutting machine for cutting a notch pattern on a key blank, comprising:			No construction necessary.
a front end configured to longitudinally receive the key blank inserted therethrough;	<p><b>front end:</b> The opening of the machine into which a key blank is inserted along its lengthwise axis, tip first for cutting.</p> <p><b>longitudinally receive the key blank inserted therethrough:</b> The user inserts a key blank tip first into the front end of the machine with the insertion direction oriented along the lengthwise axis of the key blade where the key blank is positioned for cutting.</p>	<p><b>a front end configured to longitudinally receive the key blank inserted there through:</b> A portion of the machine intended to face the user that is configured to permit a key blank to enter in a lengthwise orientation.</p>	
a housing including a top frame;	<p><b>housing:</b> A rigid structure fixing the top frame, base, and front end relative to each other.</p> <p><b>top frame:</b> A rigid structure above the base</p>	<p><b>a housing including a top frame:</b> No construction necessary. Plain meaning is clear. If the court chooses to construe this phrase, Hillman proposes the following construction: a structure that has a top member.</p>	
a clamp mechanism configured to hold the key blank stationary; and	<p><b>clamp mechanism:</b> A mechanism having a T-shape face on which the key blank rests, and actuated to move up and down via a cam and springs.</p>	<p><b>a clamp mechanism configured to hold the key blank stationary:</b> No construction necessary. Plain meaning is clear. A similar clause appears in claim 28, and thus this clause should be construed consistent</p>	

## EXHIBIT A

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
		with claim 28. Accordingly, if the court chooses to construe this phrase, Hillman proposes the following construction: a mechanism having parts that can be brought together to hold the key blank stationary.	
a pair of cutting heads connected to a suspension bracket suspended below the top frame, the cutting heads being movable relative to the clamp mechanism,	<p><b><u>suspension bracket:</u></b> A single, rigid structure to which both cutting heads are attached.</p> <p><b><u>suspended below the top frame:</u></b> Two cutting heads mounted underneath the top frame where the cutting heads are indirectly supported by a load path through the top frame and sides of the housing to the base.</p>	<p><b><u>a pair of cutting heads connected to a suspension bracket suspended below the top frame:</u></b> Two cutting heads are connected to a suspension bracket that hangs below the top frame.</p> <p><b><u>suspension bracket:</u></b> No construction necessary. Plain meaning is clear. If the court chooses to construe this phrase, the '894 patent discloses that the term "suspension bracket" is interchangeable with the term "carriage." Thus Hillman proposes the following construction: a movable part of a machine for supporting another movable part.</p> <p><b><u>the cutting heads being movable relative to the clamp mechanism:</u></b> The cutting heads are capable of being moved in the lateral direction in relation to the clamp mechanism.</p>	
the suspension bracket and cutting heads being	<b><u>the suspension bracket and cutting heads being moveable</u></b>	<b><u>the suspension bracket and cutting heads being movable longitudinally</u></b>	

## EXHIBIT A

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
movable longitudinally in unison relative to the top frame,	<b><u>Longitudinally in unison:</u></b> A single, rigid structure to which both cutting heads are attached such that the suspension bracket and cutting heads are physically constrained to move in the same direction along the lengthwise axis of the key blank at the time the key blank was inserted into the machine, at the same time, at the same rate of speed, and in the same vertical plane defined perpendicular to the lengthwise direction of the key blank blade at the time the key blank was inserted into the front end of the machine.	<b><u>in unison relative to the top frame:</u></b> The suspension bracket and the cutting heads are capable of being moved at the same time in relation to a stationary top frame lengthwise between the front and back of the machine.	
in a longitudinal direction parallel to the direction of key blank insertion,	<b><u>direction of key blank insertion:</u></b> The line defined by the lengthwise axis of the key blank blade at the time of inserting the key blank blade into the front end of the machine.	<b><u>in a longitudinal direction parallel to the direction of key blank insertion:</u></b> In a direction that is parallel to a longitudinal axis of an inserted key blank after that key blank has been introduced into the machine and is laterally aligned.	

## EXHIBIT A

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
each cutting head including a device connected thereto for actively moving each cutting head exclusively in lateral directions, perpendicular to the longitudinal direction of key blank insertion,	<p><b><u>device:</u></b> The working parts of the machine cooperating to accurately move the cutting heads towards and away from the key blank blade in a plane parallel to the key blade width</p> <p><b><u>actively moving:</u></b> The device controls and causes the cutting heads to move without the use of a tracer element.</p> <p><b><u>perpendicular to the longitudinal direction of key blank insertion:</u></b> The device can only move the cutting heads in a direction that is parallel to the key blade width at the time the key blank was inserted into the front end of the machine.</p>	<p><b><u>each cutting head including a device connected thereto for actively moving each cutting head:</u></b> Each cutting head includes working parts that function together to cause the cutting head to move in a controlled manner without the use of a tracer element.</p> <p><b><u>exclusively in lateral directions, perpendicular to the longitudinal direction of key blank insertion:</u></b> Only in directions that are perpendicular to a longitudinal axis of an inserted key blank after that key blank has been introduced into the machine and is laterally aligned.</p>	
and a cutting wheel rotatable to cut the notch pattern on the key blank.			No construction necessary.

## EXHIBIT A

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
CLAIM 74 OF THE '894 PATENT The key cutting machine of claim 70, wherein each cutting head is movable laterally in a linear motion.	<u>movable laterally in a linear motion</u> : Each cutting head moves in a direction parallel to the key blank width where such movement has no curvature.	<u>each cutting head is movable laterally in a linear motion</u> : Each cutting head is capable of being moved in the lateral direction in a straight manner having no curvature.	
CLAIM 76 OF THE '894 PATENT The key cutting machine of claim 70, further comprising a pair of guide rails suspended from the top frame of the housing and extending longitudinally, a pair of bearing supports slidably mounted to each guide rail, and wherein the suspension bracket is connected to the bearing supports.			No construction necessary.

## EXHIBIT A

CLAIM TERM/PHRASE	HY-KO'S CONSTRUCTION	HILLMAN'S CONSTRUCTION	COURT'S CONSTRUCTION
CLAIM 77 OF THE '894 PATENT The key cutting machine of claim 76, wherein the cutting heads are suspended below the suspension bracket and movable longitudinally in unison as the suspension bracket slides longitudinally.	<u>movable longitudinally in unison as the suspension bracket slides longitudinally</u> : A single, rigid structure to which both cutting heads are attached such that the suspension bracket and cutting heads are physically constrained to move in the same direction along the lengthwise axis of the key blank at the time the key blank was inserted into the machine, at the same time, at the same rate of speed, and in the same vertical plane defined perpendicular to the lengthwise direction of the key blank blade at the time the key blank was inserted into the front end of the machine.	<u>the cutting heads are suspended below the suspension bracket and movable longitudinally in unison as the suspension bracket slides longitudinally</u> : Two cutting heads hang below the suspension bracket and are capable of being moved at the same time lengthwise between the front and back of the machine as the suspension bracket slides lengthwise between the front and back of the machine.	
CLAIM 81 OF THE '894 PATENT The key cutting machine of claim 70, wherein the clamp mechanism includes a lower clamp and an upper clamp, the upper clamp suspended from the top frame of the housing and vertically movable relative to the lower clamp.			No construction necessary.